

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of

Implementation of Section 302 of  
the Telecommunications Act of 1996

Open Video Systems

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CS Docket No. 96-46

COMMENTS OF THE CABLE TELECOMMUNICATIONS ASSOCIATION

Submitted By

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**COMMENTS OF THE CABLE TELECOMMUNICATIONS ASSOCIATION**

1. The Cable Telecommunications Association ("CATA"), hereby files comments to the Notice of Proposed Rulemaking in the above-captioned proceeding. CATA is a trade association representing owners and operators of cable television systems serving approximately 80 percent of the nation's more than 66 million cable households. CATA files these comments on behalf of its members who will be directly affected by the Commission's action.

2. CATA is sensitive to the huge paperwork burden imposed on the Commission in order to meet the legislative requirements in implementing the Telecommunications Act of 1996. The Cable Bureau has requested that to as great an extent possible, comments in rulemaking proceedings be streamlined and that like comments be associated. To this end, CATA associates its comments in this proceeding with those of Continental Cablevision, the National Cable Television Association, and other cable interests.

3. Who May Be An Open Video System ("OVS") Operator. By permitting telephone companies to operate as cable television systems within their service areas and by creating the new category of Open Video System, the Congress has clearly decided not only to promote competition in the video marketplace, but to permit great flexibility in the manner in which multi-channel video can be offered to the public. CATA believes the Congressional language plainly gives the Commission authority to permit cable operators and others to operate open video systems as well. The Commission should do so.

4. All those wishing to provide multi-channel video service should be permitted to choose how it is to be provided. Such flexibility will have the effect of enhancing the likelihood of competitive service. It may be that neither cable operators nor telephone companies will choose the OVS option. Perhaps there will be only one open video system and others will use its facilities as programmers. It is too early to tell. It is essential, however, that all have the option to make the same choices, unconstrained by artificial regulations based on their historic regulatory classification. Ultimately, consumers will determine which business mode will succeed.

5. Leased Access Rates Must Be Conformed. An essential element of an open video system is that the open video provider make channel capacity available to others at reasonable rates. Cable systems must also make a percentage of channels available at reasonable rates. At issue, of course, is what constitutes a reasonable rate. We do not

intend to argue this issue here. The Commission should be mindful, however, that it will be considering essentially the same question in two different proceedings. It is the intent of both the Congress and the Commission that cable systems and open video systems compete. Under these circumstances, we urge the Commission to adopt regulations that will create some degree of parity. The object is not that cable systems and open video systems charge the same amount. Competition would have no meaning if they were so constrained. Rather, we urge that the Commission should not develop regulations for either business that would artificially prevent companies from selecting their own competitive price points. If open video systems are to be permitted to price channel capacity at a profitable level, then cable systems should have the same ability.

6. The Commission Must Control Subsidies. Clearly, the Commission must adopt requirements for cost allocation procedures to prevent the unfair subsidy of the unregulated video service by the regulated telephone service. All cost allocation procedures should be submitted to the Commission in order for a telephone company to be certified as an open video provider.

7. Full Must-Carry and PEG Regulation Should Apply. The large area that might be covered by an open video system is no reason to impose more lenient requirements than imposed on cable systems. Many cable systems also serve large areas and nevertheless provide carriage to all broadcast stations within whose ADIs the systems provide service. Similarly, cable systems are routinely subject to duplicative

PEG requirements in neighboring communities and, even in over-build areas, systems each have to provide PEG access. The same should be required for open video systems.

8. All OVS Users Should Be Permitted To Market All Services. As the Commission notes, permitting the open video system to market the channel offerings of others can result in efficiencies and enhance all programmers' ability to compete. The Commission should also permit OVS channel lessees to similarly market the OVS offerings.


9. Analog Channels Must Be Made Available to All. It may be that, in the future, it will be no more expensive to receive digital channels than analog channels. For the time being, at least, it is clear that if only one provider on a multi-channel video system has access to analog channels that provider will enjoy a distinct advantage. All lessees of open video systems should be permitted access to analog channels.

10. Conclusion. For open video systems to function as Congress intended, there must be a level playing field for open video and cable systems as well as the open video system and its channel lessees. There will be no meaningful competition if open video

systems are given advantages not enjoyed by others. CATA continues to welcome meaningful competition.

Respectfully submitted,

CABLE TELECOMMUNICATIONS  
ASSOCIATION

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